SINGLE BENCH

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR
Writ Petition. 2305 /2006

PETITIONER

P.H. No. 29/11/06
Presented by Shri B.L. Sahu
dated 29/11/06

KIRAN SONKUSARE
S/o,Shri Prabhakar Sonkusare, Age about, 20 Yrs. Resident of Teacher's Colony, Village- Sambalpur Tahsil - Bhanupratappur Distt. Kanker (C.G.)

VERSUS

RESPONDENTS

1. **State of Chhattisgarh.** Through Secretary Panchayat and Rural Development Department, D.K.S.Bhawan Mantralaya, Raipur. (C.G.)

2. **COLLECTOR Kanker** North Bastar. (C.G.)

3. **Chief Executive Officer** Janpad Panchayat Sambalpur Bhanupratappur District, Kanker (C.G.)

4. **The Sub- Divisional Officer,** Tahsil: - Bhanupratappur District Kanker (C.G.)

5. **TAHSILDAR** Bhanupratappur District, Kanker. (C.G.)

RE- B.P. COPY 29/11/06 CLERK TO A. G. BILASPUR

Prakash Tiwari
ADVOCATE

WRIT PETITION UNDER ARTICLE 226 /227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF DIRECTION (S) OR ORDER (S).

HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

Writ Petition No.2905 of 2006

Kiran Sonkusare

- Versus -

State of Chhattisgarh & Others

Present: -

Mr. Prakash Tiwari, Advocate: For the petitioner.

Mr. Satish Gupta, Deputy G.A.: For the State/respondents.

ORDER

(Passed on 6th September, 2006)

SATISH K. AGNIHOTRI, J.

The petitioner claiming to be Halba (tribal community) applied for appointment on the post of Shiksha Karmi Grade-III on basis of a caste certificate (Annexure-P/3) dated 18-10-97 issued by the Tehsildar, Gopalpatnam and another caste certificate (Annexure-P/4) issued by the Sub Divisional Officer (Revenue), Bhanupratappur. On 13-6-2005, the petitioner on the basis of said caste certificates issued by Tehsildar and Sub Divisional Officer (Revenue) was found selected and was posted at Primary School, Parvi, Tehsil Bhanupratappur, District Kanker vide Annexure-P/2. In the meantime, an anonymous complaint was made to the Collector, Kanker vide Annexure-P/7 stating that caste certificate submitted by the petitioner was forged one. A preliminary enquiry was conducted and Tehsildar, Bhanupratappur by his report dated 7-4-2006 (Annexure-P/9) submitted to the Sub Divisional Officer, came to the conclusion that the petitioner has obtained appointment on the post of Shiksha Karmi on the basis of forged caste certificate. Relying on the said report which was ex-parte and without affording any opportunity of hearing to the petitioner, respondent No.3 by his order dated 9-5-2006 (Annexure-P/1) cancelled the appointment in terms of condition No.7 of the appointment order dated 6-6-2005 (Annexure-P/2).

Supreme Court in the matter of **Director of Tribunal Welfare, Government of Andhra Pradesh v. Laveti Giri and another (AIR 1996 SUPREME COURT 1506)** laid down a dictum that dispute with regard to caste has to be decided by the Caste Scrutiny Committee constituted at State Level after affording full opportunity of hearing to the employee/candidate. The impugned order passed is not in accordance with the dictum laid down by the

Supreme Court in the case of **Director of Tribunal Welfare, Government of Andhra Pradesh** (Supra). Otherwise also it is clear case of violation of principle of natural justice and fair play in action, as the impugned order which prejudices the interest of the petitioner and visits with civil consequences, has not been passed after affording sufficient opportunity to the petitioner to put his case.

For the reasons stated above, this petition is allowed with a direction that dispute of caste raised in the petition be disposed of by the State Level Caste Scrutiny Committee as expeditiously as possible within a period of 3 months. In the meantime, the petitioner shall be allowed to continue in the post. Respondents are at liberty to take appropriate action, if so advised, being uninfluenced by the observation made hereinabove, on the basis of report/ recommendation of the State Level Caste Scrutiny Committee.

No order as to costs.

Parties are entitled for certified copy of this order.

Sd/-
Satish K. Agnihotri
Judge

Barve